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09/843,413	04/25/2001	Tony M. Pearce	5066 P	9340

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EXAMINER

HO, THOMAS Y

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/843,413

Applicant(s)

PEARCE, TONY M.

Examiner

Thomas Y Ho

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 4/25/01
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17-21 and 44-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 17 and 44 recite the limitation "pillow" in reference to the cushion. There is insufficient antecedent basis for this limitation in the claim. Claims 18-21 and 45 depend from claims 17 and 44, and are likewise rejected.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 7, 12, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenawalt (USPN4528705).

As to claim 4, Greenawalt discloses a pillow comprising:

- An inflatable bladder (34).
- A resilient material (12) (col.2, ln.15-18) covering both the top and bottom of said bladder (34).
- Said resilient material (12) being sufficiently flexible to accommodate inflation of said bladder (34).
- Wherein said resilient material (12) has top/bottom symmetry (fig.4) so that the pillow can be turned over for use on either side.
- Wherein said bladder (34) may be inflated and deflated to adjust contour of the pillow from nearly flat to fully contoured (col.2, ln.60-62).
- Wherein contour of the pillow is adjustable in discrete increments by inflating said bladder (34) in discrete increments.

As to claim 7, Greenawalt discloses a pillow comprising:

- A bladder (34) that may be inflated by placement of a gas therein.

Art Unit: 3677

- A resilient material covering (12) overlaying both the top and bottom of said bladder (34).
- Said resilient material covering (12) being sufficiently flexible to accommodate inflation of said bladder (34).
- Wherein contour of the pillow is adjustable from nearly flat to fully contoured by inflation of said bladder (34) (col.2, ln.60-62).
- Wherein contour of the pillow is adjustable in discrete increments.

As to claim 12, Greenawalt discloses a pillow comprising:

- A bladder (34) that may be inflated by placement of a gas therein.
- A resilient material covering (12) overlaying both the top and bottom of said bladder (34).
- Said resilient material covering (12) being sufficiently flexible to accommodate inflation of said bladder (34).
- Wherein said pillow is symmetrical from a top/bottom perspective so that it may be turned over for use on either side.

As to claim 17, Greenawalt discloses a cushion comprising:

- A bladder (34) that may be inflated by placement of a gas therein.
- A resilient material covering (12) overlaying both the top and bottom of said bladder (34).
- Said resilient material covering (12) being sufficiently flexible to accommodate inflation of said bladder (34).

Art Unit: 3677

- Wherein said pillow is symmetrical from a top/bottom perspective so that it may be turned over for use on either side.

Claims 38 and 41-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearce (USPN5749111).

As to claim 38, Pearce discloses a pillow comprising:

- A plurality of discrete pieces of resilient material joined together by pieces of low-durometer, high-elongation elastomeric material (col.16, ln.45-60). This is also known as a gelatinous elastomer, as disclosed in the specification (pg.11, 2<sup>nd</sup> ¶).

As to claim 41, Pearce discloses a cushion comprising:

- A plurality of discrete pieces of resilient material joined together by pieces of low-durometer, high-elongation elastomeric material (col.16, ln.45-60). This is also known as a gelatinous elastomer, as disclosed in the specification (pg.11, 2<sup>nd</sup> ¶).

As to claim 42, Pearce discloses a cushion wherein:

- Said cushion (103) is configured to support a human head. The cushion can support a whole human body (fig.1) including the human head. Whatever is specifically supported on the cushion is only intended use, and any item can be supported by the cushion.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10, 15, 20, 22-26, and 28-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Walpin (USPN6182312).

As to claim 1, Greenawalt discloses a pillow comprising:

- An inflatable bladder (34).
- Said inflatable bladder (34) capable of being inflated to a variety of levels by placing a gas therein.
- A resilient material (12) (col.2, ln.15-18) covering both the top and bottom of said bladder (34).
- Said resilient material (12) being sufficiently flexible to accommodate inflation of said bladder (34).
- Wherein said combination of bladder (34) and covering (12) is symmetrical top to bottom so that it can be turned over for use on either side.
- Wherein said bladder (34) may be inflated in discrete increments by use of a pump (38).

Greenawalt fails to disclose or suggest the following limitations:

- Wherein said resilient material is overlaid with another padding material selected from the group consisting of polyurethane foam, memory foam, latex foam rubber,

Art Unit: 3677

fiber batting, buckling elastomers, and a resilient material consisting of discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of memory foam (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 10, Greenawalt fails to disclose or suggest the following limitations:

- Wherein said resilient material covering is selected from the group consisting of polyurethane foam, memory foam, latex foam rubber, fiber batting, buckling elastomers, and a resilient material consisting of discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of memory foam (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.



Art Unit: 3677

As to claim 15, Greenawalt fails to disclose or suggest the following limitations:

- Wherein said resilient material covering is selected from the group consisting of polyurethane foam, memory foam, latex foam rubber, fiber batting, buckling elastomers, and a resilient material consisting of discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of memory foam (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 20, Greenawalt fails to disclose or suggest the following limitations:

- Wherein said resilient material covering is selected from the group consisting of polyurethane foam, memory foam, latex foam rubber, fiber batting, buckling elastomers, and a resilient material consisting of discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of memory foam (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

Art Unit: 3677

As to claim 22, Greenawalt discloses a pillow comprising:

- A core section (12) fabricated from a resilient material (col.2, ln.15-20).
- An overlay (40) on said core section (12).

Greenawalt fails to disclose or suggest the following limitations:

- Said overlay being of a material that is softer than said core section.

Walpin discloses a pillow comprising a core section (10) fabricated from a resilient material (col.2, ln.54-60) having an overlay (30) on the core section (10), with the overlay (30) being of a material softer than the core section (10) (col.3, ln.26-31) so as to provide a comfortable transition between the core (10) and a user's head (col.3, ln.39-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlay, as taught by Walpin, to provide a comfortable transition.

As to claim 23, Greenawalt discloses a pillow wherein:

- The pillow has top/bottom symmetry so that it may be turned over and used on either side.

As to claim 24, Greenawalt discloses a pillow further comprising:

- An adjustment means (34) located in said core section (12).
- Said adjustment means (34) being capable of adjusting the contour of the pillow to a variety of levels in discrete increments by placing a gas therein.

As to claim 25, Greenawalt discloses a pillow wherein:

- Said adjustment means (34) is a fluid-containing bladder.

Art Unit: 3677

As to claim 26, Greenawalt fails to disclose or suggest the following limitations:

- Wherein said overlay includes a material selected from the group consisting of latex foam rubber, buckling elastomer, and a resilient material that has discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of latex foam rubber (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 28, Greenawalt discloses a pillow comprising:

- A core section (12) fabricated from a resilient material (col.2, ln.15-20).
- An overlay (40) on said core section (12).

Greenawalt fails to disclose or suggest the following limitations:

- Wherein said overlay includes a material selected from the group consisting of latex foam rubber, buckling elastomer, and a resilient material that has discontinuous pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of latex foam rubber (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to

Art Unit: 3677

one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 29, Greenawalt discloses a pillow wherein:

- The pillow has top/bottom symmetry so that it may be turned over and used on either side.

As to claim 30, Greenawalt discloses a pillow further comprising:

- An inflatable bladder (34) located in said core section (12).
- Said inflatable bladder (34) being capable of being inflatable to a variety of levels by placing a gas therein.

As to claim 31, Greenawalt discloses a pillow further comprising:

- An adjustment means (34) located in said core section (12).
- Said adjustment means (34) being capable of adjusting the contour of the pillow to a variety of levels in discrete increments by placing a gas therein.

As to claim 32, Greenawalt discloses a pillow wherein:

- Said adjustment means (34) is a fluid-containing bladder.

As to claim 33, Greenawalt discloses a cushion comprising:

- A core section (12) fabricated from a resilient material (col.2, ln.15-20).
- An overlay (40) on said core section (12).

Greenawalt fails to disclose or suggest the following limitations:

- Wherein said overlay includes a material selected from the group consisting of latex foam rubber, buckling elastomer, and a resilient material that has discontinuous

Art Unit: 3677

pieces of flexible material joined together by low durometer, high elongation elastomeric material.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of latex foam rubber (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 34, Greenawalt discloses a cushion wherein:

- The pillow has top/bottom symmetry so that it may be turned over and used on either side.

As to claim 35, Greenawalt discloses a cushion As to claim 24, Greenawalt discloses a pillow further comprising:

- An adjustment means (34) located in said core section (12).
- Said adjustment means (34) being capable of adjusting the contour of the pillow to a variety of levels in discrete increments by placing a gas therein.

As to claim 36, Greenawalt discloses a pillow further comprising:

- An adjustment means (34) located in said core section (12).
- Said adjustment means (34) being capable of adjusting the contour of the pillow to a variety of levels in discrete increments by placing a gas therein.

As to claim 37, Greenawalt discloses a pillow wherein:

- Said adjustment means (34) is a fluid-containing bladder.

Art Unit: 3677

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Walpin (USPN6182312), and further in view of Greenawalt (USPN4501034).

As to claim 2, Greenawalt (USPN4528705) fails to disclose or suggest the following limitations:

- A second inflatable bladder.

Greenawalt (USPN4501034) discloses a pillow having a second inflatable bladder (32) (col.2, ln.55-60) to increase the possibility of firmness variation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt (USPN4528705) to have a second inflatable bladder, as taught by Greenawalt (USPN4501034), to increase the possibility of firmness variation.

Claims 3, 11, 16, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Walpin (USPN6182312), and further in view of Pekar (USPN5372487).

As to claim 3, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.

Art Unit: 3677

- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 11, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Art Unit: 3677

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 16, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed



Art Unit: 3677

by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 21, Greenawalt discloses a cushion further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

Claims 5, 8, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Greenawalt (USPN4501034).

Art Unit: 3677

As to claim 5, Greenawalt (USPN4528705) fails to disclose or suggest the following limitations:

- A second inflatable bladder which may be inflated to further adjust orthopedic contour of the pillow.

Greenawalt (USPN4501034) discloses a pillow having a second inflatable bladder (32) (col.2, ln.55-60) to increase the possibility of firmness variation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt (USPN4528705) to have a second inflatable bladder, as taught by Greenawalt (USPN4501034), to increase the possibility of firmness variation.

As to claim 8, Greenawalt (USPN4528705) fails to disclose or suggest the following limitations:

- A second inflatable bladder which may be inflated to further adjust orthopedic contour of the pillow.

Greenawalt (USPN4501034) discloses a pillow having a second inflatable bladder (32) (col.2, ln.55-60) to increase the possibility of firmness variation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt (USPN4528705) to have a second inflatable bladder, as taught by Greenawalt (USPN4501034), to increase the possibility of firmness variation.

As to claim 13, Greenawalt (USPN4528705) fails to disclose or suggest the following limitations:

- A second inflatable bladder which may be inflated to further adjust orthopedic contour of the pillow.

Art Unit: 3677

Greenawalt (USPN4501034) discloses a pillow having a second inflatable bladder (32) (col.2, ln.55-60) to increase the possibility of firmness variation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt (USPN4528705) to have a second inflatable bladder, as taught by Greenawalt (USPN4501034), to increase the possibility of firmness variation.

As to claim 18, Greenawalt (USPN4528705) fails to disclose or suggest the following limitations:

- A second inflatable bladder which may be inflated to further adjust orthopedic contour of the pillow.

Greenawalt (USPN4501034) discloses a pillow having a second inflatable bladder (32) (col.2, ln.55-60) to increase the possibility of firmness variation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt (USPN4528705) to have a second inflatable bladder, as taught by Greenawalt (USPN4501034), to increase the possibility of firmness variation.

Claims 6, 9, 14, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Pekar (USPN5372487).

As to claim 6, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.

Art Unit: 3677

- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 9, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.

Art Unit: 3677

- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 14, Greenawalt discloses a pillow further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and

Art Unit: 3677

uncover a hole during each stroke of the pump (col.3, ln.25-27), It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 19, Greenawalt discloses a cushion further comprising:

- A pump (38) integral to the pillow.

Greenawalt fails to disclose or suggest the following limitations:

- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.
- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27), It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

Art Unit: 3677

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Walpin (USPN6182312), and further in view of Pearce (USPN5749111).

As to claim 27, Greenawalt fails to disclose or suggest the following limitations:

- Said overlay includes a material selected from the group consisting of elastomers and a resilient material that has discontinuous pieces of flexible material joined together by a low-durometer, high-elongation elastomeric material.

Pearce discloses a cushion made of resilient material that has discontinuous pieces of flexible material joined together by a low-durometer, high-elongation elastomeric material, otherwise known as gelatinous elastomer as stated in the specification (pg. 11, 2<sup>nd</sup> ¶), so that protruding portions of the cushioned object can protrude into the cushion without being subjected to pressure peaks (col. 16, ln. 45-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the overlay disclosed by Greenawalt to include a gelatinous elastomer, as taught by Pearce, to prevent the user from being subjected to pressure peaks.

Claims 39-40, and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce (USPN5749111) in view of Greenawalt (USPN4528705).

As to claim 39, Pearce fails to disclose or suggest the following limitations:

- The pillow has an orthopedic contour for support of the head and neck.

Greenawalt discloses a pillow having an orthopedic contour for support of the head and neck (fig. 5) to solve the problem with conventional pillows wherein the user's head and neck are uncomfortably stressed (col. 1, ln. 5-12). It would have been obvious to one of ordinary skill in

Art Unit: 3677

the art at the time the invention was made to modify the pillow disclosed by Pearce to have an orthopedic contour, as taught by Greenawalt, to prevent stress on a user's head and neck.

As to claim 40, Pearce fails to disclose or suggest the following limitations:

- An inflatable bladder in the pillow.

Greenawalt discloses an inflatable bladder (34) in a pillow to provide the pillow with differing degrees of firmness to support a user's neck (col. 1, ln.56-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Pearce to have an inflatable bladder within, as taught by Greenawalt, to provide differing degrees of firmness.

As to claim 43, Pearce fails to disclose or suggest the following limitations:

- The pillow has an orthopedic contour for support of the head and neck.

Greenawalt discloses a pillow having an orthopedic contour for support of the head and neck (fig.5) to solve the problem with conventional pillows wherein the user's head and neck are uncomfortably stressed (col.1, ln.5-12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Pearce to have an orthopedic contour, as taught by Greenawalt, to prevent stress on a user's head and neck.

As to claim 44, Pearce fails to disclose or suggest the following limitations:

- An inflatable bladder in the pillow.

Greenawalt discloses an inflatable bladder (34) in a pillow to provide the pillow with differing degrees of firmness to support a user's neck (col.1, ln.56-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the



Art Unit: 3677

pillow disclosed by Pearce to have an inflatable bladder within, as taught by Greenawalt, to provide differing degrees of firmness.

As to claim 45, Pearce discloses a cushion wherein:

- Said cushion (103) is configured to support a human head. The cushion can support a whole human body (fig.1) including the human head. Whatever is specifically supported on the cushion is only intended use, and any item can be supported by the cushion.

Claims 46-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Pearce (USPN6197099), and further in view of Pekar (USPN5372487).

As to claim 46, Greenawalt discloses a cushion comprising:

- An inflatable gas-containing bladder (34).
- Said bladder (34) being of a construction which permits it to substantially contain gas placed therein.
- A pump (38) integral to the pillow.
- Resilient material (12) covering at least two sides of said inflatable gas-containing bladder (34).

Greenawalt fails to disclose or suggest the following limitations:

- Bladder constructed from at least two layers of film welded together.
- The pump including a pump bladder having bladder walls.
- An orifice on a bladder wall through which a gas may travel as desired.
- Resilient means located in said pump bladder.

Art Unit: 3677

- Said resilient means serving to re-expand said pump bladder after it has been contracted by a squeezing force.
- A one-way valve between said pump bladder and said inflatable gas-containing bladder to permit the pump to force gas into said inflatable gas-containing bladder.
- A bleed valve on said inflatable gas-containing bladder for permitting gas to escape therefrom.

Pearce discloses a bladder constructed of at least two (extra) layers of film welded together to form a flexible bladder, to strengthen the weld (col.18, ln.20-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the bladder disclosed by Greenawalt to be of at least two welded layers, as taught by Pearce, to make the bladder flexible while also strengthening the weld.

Pekar discloses a pump having a pump bladder (39), an orifice (47), resilient means (31), a one-way valve (16), and a bleed valve (20), so that the user will not have to release and uncover a hole during each stroke of the pump (col.3, ln.25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pump disclosed by Greenawalt with another pump, as taught by Pekar, so the user will not have to release and uncover a hole during each stroke.

As to claim 47, Greenawalt discloses a cushion wherein:

- The cushion (103) is adapted for supporting the head and neck of a user (fig.5).

Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenawalt (USPN4528705) in view of Pearce (USPN6197099), and further in view of Pekar (USPN5372487), and further in view of Walpin (USPN6182312).

Art Unit: 3677

As to claim 48, Greenawalt fails to disclose or suggest the following limitations:

- Wherein said resilient material covering is selected from the group consisting of polyurethane foam, memory foam, latex foam rubber, fiber batting, and elastomer.

Walpin discloses a pillow wherein a resilient material (10) is overlaid with another padding material (50) made of memory foam (col.4, ln.1-10) to conform to the shape of a user's head and neck region with no need for a break-in period. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the pillow disclosed by Greenawalt to have an overlaid padding material, as taught by Walpin, to conform to the shape of a user's head without a need for a break-in period.

As to claim 49, Greenawalt discloses a cushion wherein:

- The cushion (103) is adapted for supporting the head and neck of a user (fig.5).

Art Unit: 3677

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN4829614 to Harper discloses an adjustable pillow with neck support.

USPN4916765 to Castronovo discloses a pillow kit.

USPN4979249 to Meade discloses an inflatable pillow having controlled deflation.

USPN5068933 to Sexton discloses an air comfort pillow.

USPN5144708 to Pekar discloses a check valve for fluid bladders.

USPN5898963 to Larson discloses an adjustable support cervical pillow.

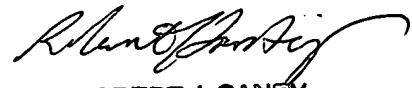
USPN6047425 to Khazall discloses an orthopedic pillow.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y. Ho whose email address is [thomas.ho@uspto.gov](mailto:thomas.ho@uspto.gov) and telephone number is (703) 305-4556. The examiner can normally be reached on M-F 9:30AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-3366.

TYH

September 5, 2002

  
ROBERT J. SANDY  
PRIMARY EXAMINER

TO: EXAMINER

SUBJECT: DEROGATORY REMARKS A PRIOR ART IN SPECIFICATION

The specification of this application may contain statements as to the merits or validity of patents of another person. For example: patents by XXX appear to be anticipated by U.S. patent x,xxx,xxx.

Derogatory remarks about prior art are not permitted per MPEP 608.01(r):

**608.01(r) Derogatory Remarks About Prior Art in Specification**

The applicant may refer to the general state of the art and the advance thereover made by his or her invention, but he or she is not permitted to make derogatory remarks concerning the inventions of others. Derogatory remarks are statements disparaging the products or processes of any particular person other than the applicant, or statements as to the merits or validity of applications or patents of another person. Mere comparisons with the prior art are not considered to be disparaging, per se. (Emphasis added.)

If any derogatory remarks about prior art patents of another person are present in this application, please make sure to object to them and require the applicant to delete such language. The following is a suggested objection to be included in an Office action:

The disclosure is objected to because the specification includes derogatory remarks about prior art (including statements as to the merits or validity of applications or patents of another person). See MPEP 608.01(r). Deletion of these remarks is required.

A copy of this memo is being placed in all applications filed by Tony M. Pearcee because a patent issued to him contains derogatory remarks concerning another person's patents. If you have any questions regarding this memo, please contact Joni Chang at 308-3858 or via e-mail. Thanks.

Joni Y. Chang  
Legal Advisor  
Office of Patent Legal Administration

August 16, 2002